

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
RENTON, WASHINGTON 98055-4056**

Exemption No. 5425

In the matter of the petition of

Continental Airlines, Inc.

Regulatory Docket No. 26755

for an exemption from § 121.314
of the Federal Aviation Regulations

GRANT OF EXEMPTION

By letter dated January 14, 1992, W. L. Bolfig, Senior Director, Quality Assurance, Continental Airlines, Inc., P.O. Box 12788, Houston, Texas, 77217-2788, petitioned for exemption from § 121.314 of the Federal Aviation Regulations (FAR) to permit a 6 month extension in the compliance time for the retrofit of Class D cargo compartment liners in Airbus Industrie Model A300 airplanes. By letters dated November 20, 1990, and February 7, 1991, Mr. Joseph D. Vreeman, Vice President, Engineering and Maintenance, Air Transport Association of America (ATA), petitioned for exemption from §§ 121.314 and 135.169(d) of the FAR to permit up to a 36-month extension in the compliance time for the retrofit of Class C and D cargo compartment liners. The petition was on behalf of all affected operators, and was partially granted in Exemption 5288. The time extension for the A300 airplanes expires on March 20, 1992.

Section of the FAR affected:

Section 121.314, as amended by Amendment 121-202, and § 135.169(d), as amended by Amendment 135-31, require, in part, that after March 20, 1991, all Class C and D cargo compartments greater than 200 cubic feet in volume, used on airplanes in air carrier, air taxi, and commercial service, have liners constructed of fiberglass or material satisfying the test requirements of § 25.855, as amended by Amendment 25-60, or, in the case of liners approved prior to March 20, 1989, aluminum. It must be noted that liners constructed of fiberglass, if not previously type certificated for use in the airplane model involved, must be shown to comply with the regulations incorporated by reference in the type certificate for that model.

ANM-92-015-E

Related Section of the FAR:

Section 25.855(a-1)(1), as amended by Amendment 25-60, incorporates a new flame penetration test using an oil burner. Unlike §§ 121.314 and 135.168(d) which permit the use of fiberglass or aluminum construction, § 25.855(a)(1) requires this test of all liner materials in Class C and D cargo compartments on affected airplanes, regardless of whether or not the material is fiberglass. These test standards are contained in Appendix F, Part III, of Part 25. Except to the extent it is incorporated by reference in §§ 121.314 and 135.169, this section applies only to transport category airplanes for which an application for type certificate is made after June 15, 1986.

The petitioner's supportive information is as follows:

"The Continental Airlines Airbus A300 fleet is presently comprised of twenty-three (23) aircraft. Continental Airlines has been accomplishing the subject modification on their fleet to meet the reference F.A.R. and Airbus Service Bulletin A300-25-431 which provides the guidelines for this modification. Out of our total of twenty-three (23) aircraft, seven (7) have been modified to date.

"We received on November 7, 1991, revision one (1) of S/B A300-25-431, which requires a modification of the forward cargo compartment door lining delivered by the present kits. This revision is applicable to eleven (11) Continental aircraft and out of those aircraft it affects five (5) of the seven (7) that were previously modified.

"Continental Airlines has received only one (1) out of the eleven (11) kits needed for this revision one (1). As of today, there is no estimate on delivery from Airbus for the remaining kits.

"In addition to Service Bulletin A300-25-431 mentioned above, a second Service Bulletin, A300-25-332, must be accomplished prior to or simultaneously with the first one. This second Service Bulletin affects six (6) of our aircraft.

"The material kits for these six (6) aircraft have not yet been received. Airbus on January 6 committed to a delivery date of February 15, 1992. After these kits go through customs Continental should have them available by February 22, 1992.

"We estimate that two (2) of the six (6) aircraft could be modified by the March 20, 1992, deadline during scheduled maintenance visits.

"In order to have all twenty-three (23) aircraft modified prior to March 20, 1992, several aircraft would have to be removed from service; thereby, significantly increasing the already high economic impact of this rule and causing service disruption.

"Continental is requesting an extension to the compliance time for revision one (1) of S/B A300-25-431 for a period of six (6) months. This would give us additional time to accomplish the changes required by Airbus upon receipt of their modification kits.

"Continental is making every effort to achieve timely compliance of F.A.R. 121.314, and will continue to work with the manufacturer."

A summary of the petitioner's January 14, 1992, request for exemption was published in the Federal Register on February 5, 1992. No comments were received.

The Federal Aviation Administration's analysis/summary is as follows:

The petitioner's request is limited to an extension of the compliance time, as already extended by the exemption granted to ATA by Exemption 5288.

The petitioner originally scheduled modifications to take place in accordance with the terms of that exemption, based on information provided by the manufacturer. The extent of the modifications affecting design were subsequently expanded by the manufacturer for certain of the model series. The petition contains data to this effect. In addition, for airplanes that are affected only by the initial modification, the kit delivery schedule has not supported the modification schedule. Thus, while a substantial number of airplanes remain to be modified, the petitioner has clearly made a good faith effort to comply.

Other information as discussed in Exemption 5288 continues to be relevant to this petition. In particular, the cost of compliance and potential removal of airplanes from service were considered to be of minimal impact when the regulation was developed. The petitioner notes that some of the airplanes will have been modified by the required date. In addition, for the A300, the modifications pertain primarily to the cargo door liner. The remainder of the compartment complies with the requirements.

The petitioner has requested 6 months in addition to the time already granted in other exemptions. As noted earlier, the FAA has attempted to balance the timeliness of compliance with the safety improvement provided by the new regulations. In this case, kits were to be available in September of 1991, requiring about four airplanes per month to be modified to comply with the exemption. Based on the apparent rate at which airplanes have been modified so far (seven airplanes in approximately two months after the kit availability), the FAA considered that a shorter extension might be appropriate, considering the rate of modifications of four airplanes per month as was originally scheduled. A shorter extension might also have been justified, since the extension will be from March 20, 1992, while the petition was filed on January 14, 1992, accounting for late arrival of kits and effectively allowing two months of time for rework of airplanes already modified. Copies of correspondence between the airframe manufacturer and the operators received by the FAA subsequent to the petition indicate that additional effort has been made to expedite kit availability. In addition, the FAA is aware that although

the manufacturer has now committed to kit delivery dates to support the petitioner's schedule, these kits have not necessarily been received. Considering that the operator is dependent to a large extent on support from the manufacturer, the FAA considers that a reduction in the time requested would not be in the public interest, in that it is likely that additional time would be requested later, for essentially the same reasons as presented in this petition. The FAA therefore considers a six month extension reasonable.

The FAA was first made aware of the extent of compliance problems with this regulation by means of petitions for exemption filed by the Air Transport Association and the Regional Airline Association in late 1990. Exemptions were granted to those organizations (on behalf of affected operators) with the understanding that service information would be forthcoming from the airframe manufacturers as needed to achieve compliance. The compliance deadlines, as stated in those exemptions, were based on the scheduled release dates of service information and the associated time required to implement the modifications. The rationale for this further extension is the same, and in granting the petition, the FAA is not setting a precedent with respect to the overall level of safety provided in the fleet.

In consideration of the foregoing, I find that a grant of exemption is in the public interest and will not affect the level of safety provided by the regulations. Therefore, pursuant to the authority contained in §§ 313(a) and 601(c) of the Federal Aviation Act of 1958, delegated to me by the Administrator (14 CFR 11.53), Continental Airlines is hereby granted an exemption to permit operation, under the provisions of Part 121 of the FAR, of airplanes that do not comply with the provisions of § 121.314 of that part. The following limitations apply to this exemption:

1. This exemption is limited to Airbus Industrie A300 series airplanes.
2. This exemption expires on September 20, 1992.

All other provisions of Exemption 5288, together with its conditions and limitations, remain the same and are applicable to this exemption.

Issued in Renton Washington, on March 20, 1992.

Darrell M. Pederson
Acting Manager,
Transport Airplane Directorate
Aircraft Certification Service

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Revised 3/16/92:ps/da